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Letter dated 15 October 1998 from the Permanent Representative of Myanmar to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a memorandum in connection with General Assembly resolution 52/137 of 12 December 1997 entitled "Situation of human rights in Myanmar" (see annex).

I should be grateful if the present letter and its annex could be circulated as a document of the General Assembly under agenda item 110 (c), entitled "Human rights questions: Human rights situations and reports of special rapporteurs and representatives".

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Ambassador
Permanent Representative

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Annex

Memorandum concerning the situation of human rights in Myanmar

Transition towards democracy

1. The Government of Myanmar is firmly committed to the establishment of a disciplined, democratic multi-party system. The Government has therefore boldly embarked on such a political transition. This objective can be achieved only when we have a strong and firm constitution. Towards that end, it has laid down a systematic programme for transition to a new political system taking into account the political, economic, social and geopolitical conditions of the country. Under the programme, a National Convention process was started in January 1993 with the objective of drafting this firm constitution.

2. The aforementioned National Convention is a systematic political process in which delegates from political parties, representatives-elect, national races, peasants, workers, intellectuals and members of the intelligentsia, service personnel and other invited guests are fully participating and striving for the emergence of a firm constitution. In view of the ethnic diversity of the country where misunderstanding among various ethnic groups in the past caused decades-long insurgency, it is vitally important to ensure that the new constitution that emerges from the National Convention process enjoys the consensus of all the ethnic groups. Because of this requirement, adequate time has to be given to the delegates with a view to achieving consensus on matters of vital concern to the country. In such a situation, the process is not amenable to a specific time-frame. Contemporary history is replete with tragedies and chaotic situations resulting from precipitous transitions from one political system to another. Fully cognizant of, and having drawn lessons from, the traumatic effects inflicted by such hasty transitions on the peoples of the countries concerned, the Government of Myanmar cannot afford to make similar mistakes. The National Convention has made considerable progress and is now deliberating the very delicate and sensitive issue of power-sharing between the central organs of the State and those of States/regions. After consensus has been achieved on this delicate issue, the National Convention process will move forward with added momentum.

3. At this critical stage of transition, the National League for Democracy (NLD) has regrettably taken a confrontational stance against the Government and some quarters have even encouraged such a negative approach.

4. There is indeed no alternative to the current National Convention process. Any alternative will be detrimental to the interest of the country and its people.

National League for Democracy (NLD) attempts to destabilize the situation

5. It should be recalled that immediately after restrictions on Daw Aung San Suu Kyi were lifted it was she who threatened the Government with "utter devastation" unless it engaged in a dialogue. She made no mention, however, of the subject matter or the topic of the dialogue. NLD then called for international sanctions and for non-investment in Myanmar, and also called on foreign Governments not to extend any assistance to Myanmar and to put political pressure on the Myanmar Government. It simultaneously urged foreign tourists not to visit Myanmar. Despite these negative moves, the Government took initiatives for meetings with NLD with a view to embarking upon a process of contacts and engagements that would lead towards the enhancement of mutual confidence and, eventually, to substantive discussions.

6. On 23 June 1998, stepping up confrontation activities against the Government, NLD demanded that the Government convene a parliament within 60 days. In spite of this illegal move, the Government continued to take a positive stance. On 18 August 1998, Secretary 1 of the State Peace and Development Council met with U Aung Shwe, Chairman of NLD, and on 24 August the Minister for Home Affairs met with three members of the Central Executive Committee of NLD.

7. Notwithstanding such positive gestures by the Government, NLD took a further confrontational step on 16 September 1998 by illegally issuing a declaration whereby a 10-member committee with the representatives-elect was formed to convene a parliament.

8. It claimed that the committee represented the representatives-elect. In reality, it does not. The ethnic groups that NLD claimed were supportive of the formation of the committee have categorically stated that they are in fact opposed to the actions of NLD and expressed support for the Government. In addition, the people in recent mass rallies in the country have also voiced their denunciation of NLD's actions and expressed overwhelming support for the National Convention process. In fact, after a lapse of eight years, those representatives who were elected in 1990 have exceeded the normal tenure within a parliament mandated by the people in any democratic country. It is also worthy

of note that all the former ethnic insurgent groups and organizations were not included in the 1990 election for obvious reasons.

Allegations of detention

9. The allegation that the Government has detained NLD members is misleading. The fact is that NLD has attempted illegally to convene a parliament; this would pose a serious threat to the existing peace and stability of the country, and is punishable under existing laws. In addition, a chaotic political situation would ensue. Before the situation came to such a pass, the Government took the most lenient possible measure in fulfilment of its fundamental obligation to protect the right of all citizens to live in a safe, secure and stable environment by inviting some NLD members to government guest houses for the purpose of exchanging views on the consequences of the actions of NLD for the peace and tranquillity of the State. Concerning allegations of political arrest, it should be emphasized that no such harsh and draconian laws as allow the Government to arbitrarily arrest a member of a political party exist in Myanmar. If there was any arrest, it could be due only to violation of the existing laws. Political beliefs or membership in a particular party has never been a reason for arrest.

10. The NLD members in question are comfortably housed, well-looked-after, and treated with courtesy and respect. Few Governments could be more magnanimous under the circumstances. It may be noted that there is a significant distinction between the status of the invitees and those detained for violation of existing laws.

Harassment/freedom of movement

11. It is alleged that Daw Aung San Suu Kyi has been subjected to repeated harassment. This allegation is a distorted presentation of the true situation. It is Daw Aung San Suu Kyi who repeatedly provoked the Government with confrontational activities, and not the Government that provoked Daw Aung San Suu Kyi. During July and August 1998, Daw Aung San Suu Kyi attempted to travel outside Yangon City with the purported aim of meeting and holding discussions with party members in the delta area. In spite of the fact that she enjoys the privilege of meeting with members of diplomatic missions, journalists, foreign visitors and party members in Yangon, Daw Aung San Suu Kyi is purposely scheming to provoke and confront the authorities by venturing to travel outside the city so as to attract attention and, if possible, create chaos and disorder by staging political rallies in the Ayeyarwady division. At the same time, the Government's responsibility to protect the well-being of all political leaders cannot be overemphasized.

12. Despite the above, the Government has shown tolerance and exercised utmost restraint towards Daw Aung San Suu Kyi, giving her as much leeway as possible to carry out her political and other activities within the bounds of the law.

Forced labour/forced relocation

13. There are allegations against the Myanmar Government of forced labour and forced relocation. As a matter of policy, the government does not practise or condone the practice of forced labour or forced relocation. Necessary directives to that effect have been issued to the relevant governmental departments.

14. Voluntary community-based contribution of labour to the infrastructural development and socio-economic development programmes of the Government cannot be construed as forced labour. The communities concerned are remunerated for the services they have rendered. Allegations are based solely on information emanating from anti-government circles and organizations that have even been able to testify before some United Nations human rights forums. In particular, these allegations emanate from some pocket areas where the remnants of the Karen National Union (KNU) insurgency still exist.

15. The Village Act and the Town Act, which are leftovers from the colonial legal system and alleged to be the legislative basis for acts of forced labour, have been reviewed by the Myanmar authorities to bring them in line with conditions in the country as well as to fulfil Myanmar's obligations to the relevant convention of the International Labour Organization (ILO). The Myanmar authorities have already assured ILO that they will complete the process within the time-frame suggested in the report of the ILO Commission of Inquiry.

Cooperation with the United Nations

16. The Government maintains close cooperation with the United Nations. The meeting last year between Senior General Than Shwe and Kofi Annan, Secretary-General of the United Nations, and the meetings between Myanmar's Foreign Minister, U Ohn Gyaw, and the senior representatives of the Secretary-General, including Alvaro de Soto, attest to this steadfast cooperation.

17. The Government has held 13 rounds of discussions with the representatives of the Secretary-General and has

received in Myanmar the Special Envoy of the Secretary-General, Alvaro de Soto, three times.

18. Most recently, on 25 September 1998, the Foreign Minister, U Ohn Gyaw, met with Alvaro de Soto at United Nations Headquarters. Although it is presumed not yet appropriate to receive the visit of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, Rajsoomer Lallah, Myanmar permitted the previous Special Rapporteur, Yozo Yokota, to visit five times. The visit of Mr. Lallah could take place at an appropriate time.

Consideration of the resolution on Myanmar

19. Myanmar is a peace-loving nation which maintains harmonious relations with other countries. Just as it respects the right of other nations to establish the political and economic system of their choice, it is convinced that other countries will also respect Myanmar's right to choose the political and economic system suitable for Myanmar's conditions.

20. The situation in Myanmar does not pose any threat to any country or to the region. The issues involved are domestic in nature. Myanmar is convinced that it is capable of resolving them internally.

21. The resolution on Myanmar should be balanced and fair and must reflect the situation in the country objectively. Should the resolution contain intrusive and extraneous elements, based on unjust and negative portrayal of the country, the delegation of Myanmar will be constrained to resist it by all appropriate means.